

Caproni/JT
JUDGE CAPRONI

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CHRONICLE BOOKS, LLC; HACHETTE BOOK GROUP, INC.; HARPERCOLLINS PUBLISHERS LLC; MACMILLAN PUBLISHING GROUP, LLC; PENGUIN RANDOM HOUSE LLC; SCHOLASTIC INC.; AND SIMON & SCHUSTER, INC.,

Plaintiffs,

- against -

AUDIBLE, INC.

Defendant.

Case No. _____

ECF Case

**[PROPOSED] ORDER TO SHOW
CAUSE FOR PRELIMINARY
INJUNCTION AND EXPEDITED
BRIEFING SCHEDULE**

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 08/23/2019

Pursuant to Rule 65 of the Federal Rules of Civil Procedure and Section 502 of the U.S. Copyright Act, 17 U.S.C. § 502, Plaintiffs Chronicle Books, LLC (“Chronicle”), Hachette Book Group, Inc. (“Hachette”), HarperCollins Publishers LLC (“HarperCollins”), Macmillan Publishing Group, LLC. (“Macmillan”), Penguin Random House LLC (“PRH”), Scholastic Inc. (“Scholastic”), and Simon & Schuster, Inc. (“S&S”) (collectively, “Publishers” or “Plaintiffs”) hereby move against Defendant Audible, Inc. (“Audible”) for a Preliminary Injunction and an Expedited Briefing Schedule. As set forth more fully in the Complaint, Publishers proceed on the basis that Audible has infringed and will infringe Publishers’ copyrights in and to the works identified in the Complaint. Audible makes derivative works of, reproduces, distributes and displays the entirety of Publishers’ Works by taking Publishers’ proprietary audiobooks, converting the narration into unauthorized text, and distributing the entire text of these “new” digital books to Audible’s customers (the “Distributed Text”);

NOW, upon the accompanying Declaration of Dale M. Cendali sworn to on the 22nd day of August, 2019, as well as the Declarations of Tyrell Mahoney of Chronicle Books, LLC, Michael Pietsch of Hachette Publishing Group, LLC, Chantal Restivo-Alessi of HarperCollins Publishers LLC., Jonathan Yaged of Macmillan Publishing Group, LLC, Jeffrey Weber of Penguin Random House, LLC, Lori Benton of Scholastic Inc., and Douglas E. Stambaugh of Simon & Schuster, Inc., Plaintiffs' Motion for a Preliminary Injunction, Plaintiffs' Complaint, and the exhibits annexed therein, and the accompanying Memorandum of Law, it is hereby

ORDERED that Plaintiffs have demonstrated good cause for the setting of an expedited briefing schedule in this proceeding due to the upcoming launch of Audible's "Audible Captions" feature on or about September 10, 2019;

ORDERED that Defendant Audible, Inc. ("Audible") show cause before the Honorable Paul Crotty (Part I), U.S.D.J., located at the United States Courthouse, 500 Pearl St., in the City, County and State of New York, Courtroom 14C, on Sept. 5, 2019, at 2:10pm / p.m., as to why a Preliminary Injunction Order pursuant to Section 502 of the U.S. Copyright Act, 17 U.S.C. § 502 and Rule 65 of the Federal Rules of Civil Procedure, should not be entered, once briefing is completed and the Court has the opportunity to weigh in on the parties' arguments, granting Plaintiffs' preliminary injunction as follows:

Preliminarily enjoining Defendant, including its agents, servants, employees, attorneys, successors and assigns, and all persons, firms and corporations acting in concert with it, from directly or indirectly infringing Publishers' copyrights, including, but not limited to, making derivative works of, reproducing, distributing, or publicly displaying any of Publishers'

IT IS FURTHER ORDERED that the complaint ~~is served~~
and this order be served on the Defendant by 6:00pm on August
23, 2019, and proof of service be posted on ECF by 5:00pm on
August 24, 2019.
copyrighted books (including without limitation the Works) as Distributed Text, and from
participating or assisting in any such activity.

IT IS FURTHER ORDERED that Defendant's answering papers shall be filed and
served upon Plaintiffs' counsel by email to KEPublishers-Audible@kirkland.com, by the 28
/ day of August, 2019 and any reply papers shall be filed and served on Defendant by
/ Sep. 3, 2019.

SO ORDERED this 23 day of August, 2019.

11:00 am

Valerie Caproni
United States District Judge

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